



DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1301

[Docket No. DEA-749]

RIN 1117-AB70

Addition of the United States Space Force as a Registration Waiver and Registration Fee Exempt Military Entity

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final rule.

SUMMARY: This final rule amends existing regulations to include the United States Space Force as a registration waiver and registration fee exempt military entity.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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SUPPLEMENTARY INFORMATION:

Technical Amendment

Current Drug Enforcement Administration (DEA) regulations exempt registration fees and waive certain registration requirements for listed military entities: the U.S. Army, Navy, Marine Corps, Air Force, and Coast Guard. Any hospital or other institution operated by one of these entities,¹ and any individual practitioners required to obtain a registration in

¹ 21 CFR 1301.21(a)(1).

order to carry out their duties as officials of an agency of the United States (including the U.S. Army, Navy, Marine, Corps, Air Force, and Coast Guard), is exempt from payment of an application fee for registration or reregistration.² In addition, current DEA regulations waive the requirement of registration for officials of the U.S. Army, Navy, Marine Corps, Air Force, or Coast Guard who are authorized to prescribe, dispense, or administer, but not to procure or purchase, controlled substances in the course of their duties.³ Finally, current DEA regulations waive the requirement of registration for any official or agency of the U.S. Army, Navy, Marine Corps, Air Force, or Coast Guard authorized to import or export controlled substances in the course of their duties.⁴

The United States Space Force (USSF) -- formerly known as the Air Force Space Command (AFSC) -- was established as an independent military branch on December 20, 2019,⁵ by the United States Space Force Act. This rule therefore revises 21 CFR 1301.21 and 1301.23 to include USSF in the list of military entities exempt from paying DEA registration fees. Because the AFSC was fee exempt under existing DEA regulations as part of the Air Force, the DEA is issuing this final rule to provide clarity by adding “Space Force” to 21 CFR 1301.21 (“Exemption from fees”) and 21 CFR 1301.23 (“Exemption of certain military and other personnel”).

Regulatory Analyses

Administrative Procedure Act

The Administrative Procedure Act (APA) (5 U.S.C. 553) does not require notice and the opportunity for public comment where the agency for good cause finds that notice and public comment are unnecessary, impracticable, or contrary to the public interest under 5 U.S.C. 553(b)(B). This rule contains a technical amendment; it imposes no new or

² 21 CFR 1301.21(a)(2).

³ 21 CFR 1301.23(a).

⁴ 21 CFR 1301.23(b).

⁵ 10 U.S.C. 9081.

substantive requirement on the public or DEA registrants. As such, DEA has determined that notice and the opportunity for public comment on this rule are unnecessary. Because this is not a substantive rule, and as DEA finds good cause under 5 U.S.C. 553(d)(3) for the above reason, this final rule will take effect upon date of publication in the Federal Register.

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review)

This final rule was developed in accordance with the principles of Executive Orders (E.O.) 12866 and 13563. E.O. 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects; distributive impacts; and equity). E.O. 13563 is supplemental to, and reaffirms, the principles, structures, and definitions governing regulatory review as established in E.O. 12866. The Office of Information and Regulatory Affairs has deemed this type of technical amendment not significant under E.O. 12866.

Executive Order 12988, Civil Justice Reform

This final rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burdens.

Executive Order 13132, Federalism

This final rule does not have federalism implications warranting the application of Executive Order 13132. The final rule does not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or the distribution of power and responsibilities among the various levels of government.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

This final rule does not have tribal implications warranting the application of Executive Order 13175. This rule does not have substantial direct effects on one or more

Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612) applies to rules that are subject to notice and comment under section 553(b) of the APA. As noted in the above discussion regarding applicability of the APA, the DEA was not required to publish a general notice of proposed rulemaking prior to this final rule. Consequently, the RFA does not apply.

Unfunded Mandates Reform Act of 1995

The DEA has determined and certified pursuant to the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1501 et seq., that this action will not result in any federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more (adjusted annually for inflation) in any one year. Therefore, neither a Small Government Agency Plan nor any other action is required under the provisions of UMRA.

Paperwork Reduction Act

This action does not involve a collection of information requirement under the Paperwork Reduction Act, 44 U.S.C. 3501-3521. This action does not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number.

Congressional Review Act

This rule is not a major rule as defined by the Congressional Review Act (CRA), 5 U.S.C. 804. However, pursuant to the CRA, the DEA is submitting a copy of this final rule to both Houses of Congress and to the Comptroller General.

List of Subjects in 21 CFR Part 1301

Administrative practice and procedure, Drug traffic control, Security measures.

For the reasons stated in the preamble, DEA amends 21 CFR part 1301 as follows:

PART 1301—REGISTRATION OF MANUFACTURERS, DISTRIBUTORS, AND DISPENSERS OF CONTROLLED SUBSTANCES

1. The authority citation for part 1301 continues to read as follows:

Authority: 21 U.S.C. 821, 822, 823, 824, 831, 871(b), 875, 877, 886a, 951, 952, 956, 957, 958, 965 unless otherwise noted.

2. In § 1301.21, revise paragraphs (a)(1) and (2) to read as follows:

§ 1301.21 Exemption from fees.

(a) * * *

(1) Any hospital or other institution which is operated by an agency of the United States (including the U.S. Army, Navy, Marine Corps, Air Force, Space Force, and Coast Guard), of any State, or any political subdivision or agency thereof.

(2) Any individual practitioner who is required to obtain an individual registration in order to carry out his or her duties as an official of an agency of the United States (including the U.S. Army, Navy, Marine Corps, Air Force, Space Force, and Coast Guard), of any State, or any political subdivision or agency thereof.

* * * * *

3. In § 1301.23, revise paragraphs (a) and (b) to read as follows:

§ 1301.23 Exemption of certain military and other personnel.

(a) The requirement of registration is waived for any official of the U.S. Army, Navy, Marine Corps, Air Force, Space Force, Coast Guard, Public Health Service, or Bureau of Prisons who is authorized to prescribe, dispense, or administer, but not to procure or purchase, controlled substances in the course of his/her official duties. Such officials shall follow procedures set forth in part 1306 of this chapter regarding prescriptions, but shall state

the branch of service or agency (e.g., “U.S. Army” or “Public Health Service”) and the service identification number of the issuing official in lieu of the registration number required on prescription forms. The service identification number for a Public Health Service employee is his/her Social Security identification number.

(b) The requirement of registration is waived for any official or agency of the U.S. Army, Navy, Marine Corps, Air Force, Space Force, Coast Guard, or Public Health Service who or which is authorized to import or export controlled substances in the course of his/her official duties.

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Anne Milgram,
Administrator.

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